

Application No.: 10/705,400

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REMARKS**Pending Claims**

Claims 4-7 and 11-21 have been withdrawn from consideration. Claims 1-3 and 8-10 have been elected for examination. Claim 1 has been amended based on the description in the specification. No new matter has been added.

Election/Restrictions

Applicants respectfully submit that claim 1 is generic to cited species in the Office Action dated November 24, 2004. The definition of generic claim is stated in MPEP 806.01(d) as follows:

It is not possible to define a generic claim with that precision existing in the case of a geometrical term. In general, a generic claim should include no material element additional to those recited in the species claims, and must comprehend within its confines the organization covered in each of the species.

For the purpose of obtaining claims to more than one species in the same case, the generic claim cannot include limitations not present in each of the added species claims. Otherwise stated, the claims to the species which can be included in a case in addition to a single species must contain all the limitations of the generic claim.

Claim 1 does not include no material element additional to those recited in the species claims, that is, claim 1 does not include limitations not present in each of the species claims. The definition of generic as applied to claim 1 would dictate that claim 1 read on and be generic to cited species.

It is states in the Office Action that "...the transitional phrase 'comprising' is used to define the scope of the claim with respect to what unrecited additional components or steps, if any, are excluded from the scope of the claim, not to define or disclose the relationship between independent inventions."

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However, the definition of the term "independent" in given MPEP 802.01 is as follows:

The term "independent" (i.e., not dependent) means that there is no disclosed relationship between the two or more subjects disclosed, that is, they are unconnected in design, operation, or effect, for example: (1) species under a genus which species are not usable together as disclosed; or (2) process and apparatus incapable of being used in practicing the process.

That is, this term is used to define and separate various species that are disclosed in the specification. It is not a term to define what a generic claim is. Indeed, the species may be independent and distinct but the usage of these terms to generic claims is misplaced.

Applicants assert that (1) the claimed elements of claim 1 are reflected in Figs. 1 and 4-7, and (2) claim 1 further reads on Figs. 8, 9, 10, 13, and 24 because these figures show "an absorber," "an absorbing sheet portion," and "a support sheet portion" with all the limitations of these elements as set forth in claim 1.

Still further, claim 1 reads on Figs. 11, 12, 19, 21, and 22 because these figures show the backside of the support sheet 42 (part of the support sheet portion 44b), which has a mini sheet piece 62 attached thereto. Clearly claim 1 is a generic claim that reads on Figs. 11, 12, 19, 21, and 22.

Additionally, claim 1 also reads on Fig. 23 for the same reason as Figs. 1(a), 6, and 7. Claim 1 reads on Fig. 20 because this figure merely shows an example of how the claimed invention is applied to the body.

Moreover, claim 1 reads on Figs. 1, 4-13, and 19-24. Therefore, claim 1 reads on Species 1-7, 9, and 10 and Subspecies 1 and 2.

As an example, Applicants assert that claim A directed to Structure S comprising elements x and y is clearly generic to claim B depending from claim A and directed to Structure S further comprising element z. That is, broadly claimed Structure S with elements x and y would be generic to more narrowly claimed Structure S with elements x, y, and z. And an element such as a "minisheet" disclosed in the present figures would correspond to element z.

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Therefore, it is respectfully request that claim 1 be recognized as a generic claim.

Claim Rejections 35 USC §102

Claims 1-3 and 8-10 have been rejected under 35 USC §120(b) as being anticipated by Raidel et al. (WO 98/43684). Applicants respectfully submit that these claims are not anticipated for at least the following reasons. It is noted here that WO 98/43684 has a corresponding Canadian Patent Application, CA2283406.

Claim 1 as amended recites as follows:

Claim 1 (currently amended): An interlabial pad for attaching to labia, comprising:
an absorbing sheet portion for facing a body side upon wearing the interlabial pad; and
a support sheet portion backing the absorbing sheet portion,
wherein said absorbing sheet portion comprises a pair of absorbing sheet bodies, each of which contains an absorber, said pair of absorbing sheet bodies are separated along a center line of the interlabial pad, and each absorbing sheet body is bonded to said support sheet portion, comprising an impermeable support sheet, on a peripheral edge portion of the interlabial pad thereby forming a void between a garment face side of the absorbing sheet body and the body face side of the support sheet, said void having an opening along the center line and facing the body side for allowing the body fluid to flow into the void, and said void divided into two parts when the interlabial pad is folded along the center line.

The invention as set forth in claim 1 is not anticipated because as set forth in claim 1 at the least (1) the claimed article is an interlabial pad, and (2) the void is formed between the garment face side of the absorbing sheet body and the body face side of the support sheet, and the void has an opening along the center line of the interlabial pad and facing the body side for allowing the body fluid to flow into the void, and (3) the void is divided into two parts when the interlabial pad is folded along the center line.

With regard to (1), it is respectfully pointed out that the presently claimed invention as set forth in claim 1 is an interlabial pad. In contrast, Raidel's absorbent article is a sanitary napkin. In the field of absorbent articles, it is well known to a person of ordinary skill in the art that these are two different types of absorbent articles. One is designed to fit into the labia of a wearer by folding the article, whereas the other is designed to place over the labia. Therefore, for at least this reason, the invention as set forth in claim 1 is not anticipated by Raidel.

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With regard to (2), Faidel does not disclose, teach or suggest a void formed between the garment face side of the absorbing sheet body and the body face side of the support sheet, and having an opening along the center line of the interlabial pad and facing the body side for allowing the body fluid to flow into the void. The absorbent article of Raidel appears to have off-center grooves extending in the longitudinal direction on the outer cover of the absorbent article. However, it does not show an interlabial pad with a void formed between the garment face side of the absorbing sheet body and the body face side of the support sheet AND having an opening along the center line and facing the body side for allowing the body fluid to flow in. Therefore, for at least this reason, claim 1 is not anticipated by the cited prior art reference.

With regard to (3), Faidel does not disclose, teach or suggest a void divided into two parts when the interlabial pad is folded along the center line. Raidel does not disclose a void which when folded along the center line of the interlabial pad, the void is divided into two equal parts for the body fluid to flow into. Therefore, for at least this reason, claim 1 is not anticipated by the cited prior art reference.

The open void at the body face side is important for the present invention in that it allows for greater retention of the body fluid because the interlabial pad with the void can hold more fluid than one without.

Applicants believe that each of the reasons above by itself is sufficient to overcome the anticipated rejection as set forth in the outstanding Office Action.

Claims 2, 3, and 8-1) depend from claim 1 directly, and therefore, for at least the same reason as claim 1, these claims are also not anticipated.

It is respectfully requested that all the pending claims be allowed for the foregoing reasons..

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In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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